

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 732/2023
Wahid Ullah
Ex- IHC No. 622 Kohat

..... (Appellant)

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa etc

.....(Respondents)

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Deponent

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 732/2023

Wahid Ullah

Ex- IHC No. 622 Kohat

..... (Appellant)

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 6930

Dated 09/08/23

Inspector General of Police,
Khyber Pakhtunkhwa etc

.....(Respondents)

REPLY BY RESPONDENTS NO. 1 TO 3

**RESPECTFULLY SHEWETH:
PRELIMINARY OBJECTIONS:-**

- i. That the appeal is not based on facts.
- ii. That the appeal is barred by law and limitation.
- iii. That the appeal is not maintainable in the present form.
- iv. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- v. That the appellant is estopped to file the instant appeal by his own conduct.
- vi. That the appellant has not come to this Honorable Tribunal with clean hands.
- vii. That the instant Service Appeal is badly time barred.
- viii. That the appellant has got no cause of action and locus standi to file the instant Service Appeal.

FACTS

1. Pertains to service record of the appellant.
2. Incorrect, the appellant while deputed for challan duty and to produce hardened criminals including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines District Tank involved in case FIR No. 35 dated 30.03.2022 u/s 302/324/353/120-B/4-5-ESA/ 15AA/7 ATA PS CTD DI Khan. During Police custody the said accused made escape from the Police party due to his negligence & carelessness as such proper case has been registered against the above official vide FIR No. 729 dated 23.11.2022 u/s 223/224 PPC PS Cantt. The appellant was served with charge sheet & statement of allegations. SP Operations Kohat was appointed as enquiry officer to conduct proper departmental enquiry and to submit his finding with reasonable period. The appellant was found guilty of gross misconduct and the enquiry officer recommended the appellant for major punishment. After fulfillment of all codal formalities the appellant was awarded major punishment of dismissal from service vide Order dated 22.12.2022.
3. Incorrect, as already explained above. The appellant was found guilty of gross misconduct as he badly failed to perform his official duty. The accused escape from the custody of appellant. Therefore, the appellant was proceeded against

departmentally and after conclusion of enquiry he was awarded major punishment of dismissal from service vide Order dated 22.12.2022.

4. Incorrect, as already explained in preceding Paras.
5. Incorrect, the appellant is not aggrieved. In fact the appellant has been punished on his gross misconduct. On the departmental appeal of the appellant the appellant was heard in person on 14.02.2023 in the office of Regional Police Officer, Kohat wherein the appellant badly failed to advance any plausible grounds in rebuttal of charges. Furthermore, escape of a prisoner/ accused from Police custody either due to negligence or collusion is the most unjustifiable offence and must not be condoned therefore, the departmental appeal was rejected vide Order dated 22.02.2023. The instant appeal of the appellant is liable to be dismissed on the following grounds.


GROUNDS

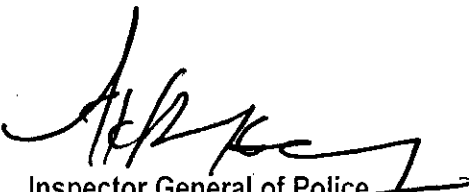
- A. Incorrect, as already explained above that the appellant was found guilty of gross of misconduct therefore, the order of dismissal is in accordance with law/ rules.
- B. Incorrect, as already explained in preceding Paras.
- C. Incorrect, misleading and misconceived, as already explained above that accused made escape from the custody of Police on account of negligence of the appellant. The appellant was proceeded against departmentally and the appellant was found guilty of gross misconduct. Therefore, he was awarded with major punishment of dismissal from service.
- D. Incorrect, the enquiry officer recommended the appellant for major punishment. In fact the appellant badly failed to advance any plausible grounds in rebuttal of charges.
- E. Incorrect, as already explained in preceding Paras.
- F. Incorrect, as already explained in detail in Paras No. 2 & 3.
- G. Incorrect, misleading and misconceived, the appellant badly failed to advance any plausible grounds in his self-defense.
- H. Incorrect, the appellant showed negligence due to which the accused escaped from the custody of Police.
- I. Incorrect, the appellant is blaming respondents. The appellant showed negligence in performance of official duty due to which the accused escaped from the Police custody. This kind of negligence always brings bad image of Police towards general public.
- J. Incorrect, the respondents neither violated fundamental rights of the appellant nor violated any Article of Constitution of Islamic Republic of Pakistan, 1973.
- K. Incorrect, as already explained in preceding Paras.
- L. Incorrect, as already explained above in detail.
- M. As already explained in Para No. 2 of Facts.
- N. Incorrect, misleading and misconceived, let the appellant to prove this Para.


- O. Incorrect, the appellant was proceeded against departmentally in accordance with law/ rules. Proper enquiry conducted wherein the appellant was found guilty of gross misconduct.
- P. Incorrect, no violation of Constitution of Islamic Republic of Pakistan exist on part of answering respondents.
- Q. Incorrect and misconceived, the criminal case proceedings and departmental proceedings are distinct in nature, can run side by side.
- R. Incorrect, all codal formalities have been adopted by answering respondents during course of departmental enquiry.
- S. Incorrect, as already explained above.
- T. Incorrect, no violation of law/ rules exist on part of answering respondents.
- U. Incorrect, the enquiry conducted as per law/ rules as well as mandate assigned to respondents.
- V. Incorrect, as already explained above in detail.
- W. Incorrect, as already explained above, that the appellant was heard in person 14.02.2023 in orderly room wherein the appellant badly failed to advance any plausible grounds in rebuttal of charges.
- X. Incorrect, as already explained above that criminal case proceedings and departmental proceedings are distinct in nature and both can run side by side. Furthermore, the appellant found guilty of gross misconduct therefore, he was awarded major punishment of dismissal from service.
- Y. Incorrect, the appellant is not eligible to be reinstated because he has shown such negligence due to which accused escaped from the custody of Police.
- Z. Incorrect, all codal formalities adopted by respondents and after which the major punishment of dismissal from service was given to the appellant.
- AA. Incorrect, misleading and misconceived, the appellant is not eligible to be reinstated in service again.
- BB. The answering respondents may also be allowed to adduce additional grounds at time of hearing of instant Service Appeal.

PRAYER:-

Keeping in view the above stated facts and circumstances, it is therefore humbly prayed that the appeal is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.


Regional Police Officer,
Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 732/2023
Wahid Ullah
Ex- IHC No. 622 Kohat

..... (Appellant)

VERSUS

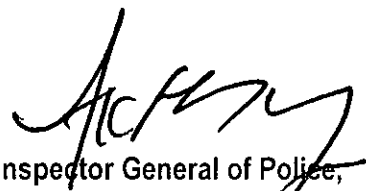
Inspector General of Police,
Khyber Pakhtunkhwa etc


.....(Respondents)

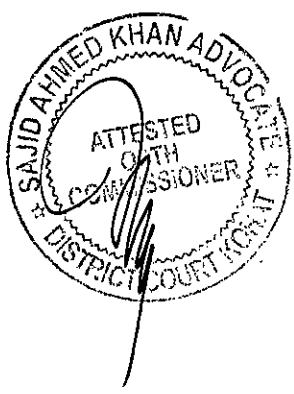
COUNTER AFFIDAVIT

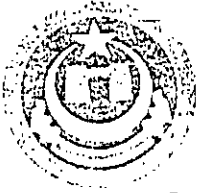
We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Regional Police Officer,
Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)





No/CPB/37-38/PA

Office of the
District Police Officer,
Kohat

Dated 24/11/2022

CHARGE SHEET

1, SHAFI ULLAH KHAN, DISTRICT POLICE OFFICER, KOHAT, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you IHC Wahid Ullah No. 622 rendered yourself liable to be proceeded against, as you have omitted the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.


- i. That you IHC Wahid Ullah No. 622 was deputed for Challan duty and to produce hardened criminals including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines district Tank involved in case FIR No. 35 dated 30.03.2022 u/ss 302,324,353,120-B,4/5 ESA,15 AA, 7-ATA PS CTD D.I. Khan at ATC Kohat.
- ii. That during Police custody the said accused made good escape due to your negligence & irresponsibility as such proper case has been registered against you vide FIR No. 729 dated 23.11.2022 u/ss 223,224 PPC PS Cantt.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT



Office of the
District Police Officer,
Kohat

Dated _____/2022

No. _____/PA

DISCIPLINARY ACTION

I, **SHAFI ULLAH KHAN, DISTRICT POLICE OFFICER, KOHAT** as competent authority, am of the opinion that you **IHC Wahid Ullah No. 622** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions

STATEMENT OF ALLEGATIONS

- i. That you IHC Wahid Ullah No. 622 was deputed for Challan duty and to produce hardened criminals including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines district Tank involved in case FIR No. 35 dated 30.03.2022 u/ss 302,324,353,120-B,4/5 ESA,15 AA, 7-ATA PS CTD D.I. Khan at ATC Kohat.
- ii. That during Police custody the said accused made good escape due to your negligence & irresponsibility as such proper case has been registered against you vide FIR No. 729 dated 23.11.2022 u/ss 223,224 PPC PS Cantt.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **SP Operations Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

**DISTRICT POLICE OFFICER,
KOHAT**

No. **16837-38/PA**, dated **24-11-2022**.

1. Copy of above to:-
SP Operations Kohat :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The **Accused official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

جنور جناب و سرگت پولیس آفیسر صاحب کوہاٹ

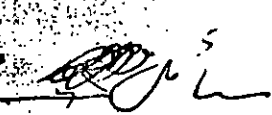
عنوان: جواب چارج شیٹ

بھالہ چارج شیٹ نمبری PA/38-10837 مورخہ 2022ء 24.11.2022 سرکاری حالت میں کہہ دو تو یہ مورد
 23.11.2022 کو سائل ڈیگر نقری پولیس کے سزاواران پوری کی ادائیگی کے لئے ڈسٹرکٹ جیل کوہاٹ گیا تھا۔ لیکن
 تعدادی 56 نقری ایک لیڈی ملزمہ کو جیل سے انچارج تعلقہ باہر لا کر دو روز روہین میں جبکہ لیڈی ملزمہ کو سائل گاڑی میں
 بیٹھایا گیا۔ میں اسی سوشل سائیکل پر عدالت سیشن جج صاحب کے ذات کے قافلہ گت پر لیڈی کی آمد سے قبل پہنچا۔ لیکن
 اترا جا کر میں 28 نقری سائل لیڈی کے ساتھ گریٹ کے ساتھ تیار لیڈی کے آگے آگے روانہ ہوا۔ جبکہ عدالت کے درمیان میں
 دیگر کانسٹیبلان موجود تھے۔ لیکن بالاکو جو سائل حالات پہنچا کہ میں لیڈی کے درمیان سے گزرتے کہ وہ سائل کے لئے ہراؤ دیکر
 کانسٹیبلان جا کر جیل لیڈی 26 نقری کوئی اجرو۔ سائل لاکر آپ پہنچا کہ وقت وہاں تک حالانکہ یہ حال کہ لیڈی میں اسے
 ایک نقرم ہے۔

سائل تقریباً 24 سال تک پولیس ملازمت پوری کر چکا ہے۔ قبل ازیں کبھی بھی اسے سرکاری نوکری کی ادائیگی میں سائل کو
 زیر بحث میں بالکل بے گناہ ہے۔

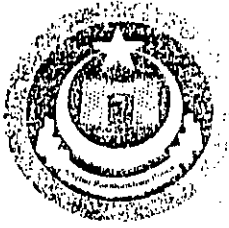
مورخہ 29.11.2022

عرض شدہ

سائل  و اجرو اللہ $\frac{622}{146}$ مسقفہ پورہ لائن کوہاٹ

0334-8254269

صانع پوری - 4999-01-16



P-9

**OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT**

ORDER

This order will dispose of departmental enquiry against IHC Wahid Ullah No. 622 of this district Police under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that IHC Wahid Ullah No. 622 was deputed for Challan duty and to produce hardened criminals including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines district Tank involved in case FIR No. 35 dated 30.03.222 u/ss 302,324,353,120-B, 4/5 ESA, 15 AA, 7-ATA PS CTD D.I. Khan at ATC Kohat.

That during Police custody the said accused made good escape from the Police party due to his negligence & carelessness as such proper case has been registered against the above official vide FIR No. 729 dated 23.11.2022 u/ss 223,224 PPC PS Cantt.

He was served with charge sheet & statement of allegations. SP Operations Kohat was appointed as enquiry officer to conducted proper departmental enquiry and to submit his finding within stipulated period. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

In view of the above and available record, I reached to the conclusion that the charged leveled against the accused official is established beyond any shadow of doubt and retention of such like element in a discipline force is not desirable and shall earned bad name to Police. Therefore, in exercise of powers conferred upon me under the rules ibid I, Abdul Rauf Babar District Police Officer, Kohat impose a major punishment of dismissal from service on accused IHC Wahid Ullah No. 622. Kit etc be collected and report.

DISTRICT POLICE OFFICER,
KOHAT

OB No. 718
Date 22/12/2022
No 1/E.36-37/PA dated Kohat the 22-12 2022.

Copy of above to the R./Reader/SRC/OHC for necessary action.

POLICE DEPTT:

KOHAT REGION

ORDER.

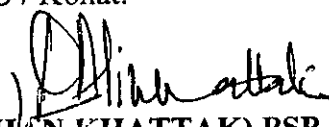
This order will dispose of a departmental appeal moved by Ex-IHC Wahid Ullah No. 622 of Kohat district Police against the punishment order, passed by DPO Kohat vide OB No. 778, dated 22.12.2022 whereby he was awarded major punishment of **dismissal from service** on the following allegations:-

“The appellant alongwith others was deputed for Challan duty to produce hardened criminal including accused Najeeb Ullah s/o Taj Ali Khan r/o Civil Line district Tank involved in case FIR No. 35, dated 30.03.2022 u/s 302, 324, 353, 120-B, 4/5 ESA, 15-AA, 7-ATA PS CTD, D.I.Khan at ATC Kohat. During custody, the said accused made good his escape from Police custody due to negligence & carelessness of Police and a proper case vide FIR No. 23.11.2022 u/ss 223, 224 PPC PS Cantt, Kohat was registered”.

Comments as well as relevant record of Ex-IHC Wahid Ullah No. 622 were obtained from DPO Kohat. His service record, service profile and all relevant records were perused. He has 08 bad entries and no good entry to his credit. He was also heard in person in orderly room held in this office on 14.02.2023. The appellant was properly seated and was heard patiently.

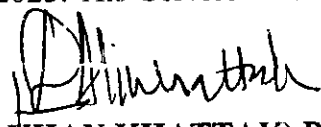
It is crystal clear from the above facts that the delinquent Police officer miserably failed to perform his duty in a professional manner. Police Rules (1934) 16.37 recommends **“Normal punishment of Dismissal from Service in case of escape from Police custody”**. Here it is the escape of a diehard / hardened under trial prisoner Najeeb Ullah s/o Taj Ali Khan r/o Civil Lines district Tank involved in case FIR No. 35, dated 30.03.2022 u/s 302, 324, 353, 120-B, 4/5 ESA, 15-AA, 7-ATA PS CTD, D.I.Khan which escape from Police custody became a headline and dented the reputation of Police amongst the general public. Escape of a prisoner / accused from Police custody either due to negligence or collusion is the most unjustifiable offence and must not be condoned. Any clemency / leniency granted to Police officers accused of committing such offence will further lower the image of Police department in the eyes of the general public. So, I, **Dar Ali Khan Khattak, PSP, Regional Police Officer, Kohat Region** hereby reject the instant appeal in exercise of powers conferred upon me under Police Rules 1975, amended 2014 Rules, Section- 11(2) and endorse the punishment of dismissal of service awarded to the appellant Wahid Ullah No. 622 (Ex-IHC) by DPO / Kohat.

Order Announced
14.02.2023


(DAR ALI KHAN KHATTAK) PSP
Region Police Officer,
Kohat Region.

No. 2219 /EC, dated Kohat the 20/02 /2023.

Copy to District Police Officer, Kohat for information and necessary action w/r to his office Memo: No. 1026/LB, dated 03.02.2023. His Service Record is returned herewith.


(DAR ALI KHAN KHATTAK) PSP
Region Police Officer,
Kohat Region.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 732/2023

Wahid Ullah

Ex- IHC No. 622 Kohat

..... (Appellant)


VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa etc

.....(Respondents)

AUTHORITY LETTER

Mr. Arif Saleem steno (Focal Person) of this office is hereby authorized to file the parawise comments and any other registered documents in the Honorable Tribunal on behalf of respondents / defendant and pursue the appeal as well.


District Police Officer,
Kohat
(Respondent No. 3)